

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA**

RODRICK L. DAVIS,)
)
 Plaintiff,)) Civil Action No. 1:07-CV-285 JVB
 v.)
)
 ALLEN COUNTY JAIL, *et al.*,)
)
 Defendants.)

OPINION AND ORDER

Rodrick L. Davis, a *pro se* prisoner, submitted a complaint and an *informa pauperis* petition.

A prisoner may not bring a civil action or appeal *informa pauperis* if he has

on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it was frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). This is commonly known as the “three strikes” provision. Davis has accumulated three strikes.

The records of this court confirm that the disposition of three cases previously filed by the Plaintiff qualify as “strikes” within the meaning of §1915(g):

- (1) *Davis v. Allen County Sheriff*, 1:05-CV-163, dismissed June 9, 2005, pursuant to 28 U.S.C. § 1915A;
- (2) *Davis v. Allen County Sheriff's Department*, 1:05-CV-225, dismissed July 11, 2005, pursuant to 28 U.S.C. § 1915A; and
- (3) *Davis v. Allen County Sheriff*, 1:05-CV-246, dismissed August 16, 2005, pursuant to 28 U.S.C. § 1915A.

An inmate with three or more strikes “can use the partial prepayment option in § 1915(b) only if in the future he ‘is under imminent danger of serious physical injury.’” *Abdul-Wadood v. Nathan*, 91 F.3d 1023, 1025 (7th Cir. 1996). Mr. Davis’s complaint for monetary damages alleges that he was held past his release date. This does not qualify as an allegation that he is currently under imminent danger of serious physical injury. Accordingly, 28 U.S.C. § 1915(g) mandates the court deny him leave to proceed *in forma pauperis*. Mr. Davis may still proceed with this action, but to do so he must pay the full amount of the filing fee in advance.

For the foregoing reasons, the court:

- (1) **DENIES** Rodrick L. Davis leave to proceed *in forma pauperis* (DE 2);
- (2) **GRANTS** him until December 28, 2007, within which to pay the \$350.00 filing fee; and
- (3) **ADVISES** him that if he does not pay the filing fee by that date, this case will be dismissed without further notice without affecting his obligation to pay the filing fee in installments.

SO ORDERED on November 26, 2007.

S/ Joseph S. Van Bokkelen
JOSEPH S. VAN BOKKELEN
UNITED STATES DISTRICT COURT JUDGE